

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF NORTH DAKOTA**

**ENERGY TRANSFER EQUITY, LP, *ET AL.***

**PLAINTIFFS**

**VS.**

**1:17-CV-00173-BRW**

**GREENPEACE INTERNATIONAL, *ET AL.***

**DEFENDANTS**

**ORDER**

On July 25, 2018, I directed Plaintiffs to show cause why “Earth First!” (“EF!”) should not be dismissed as a party for failure to effect service.<sup>1</sup> I noted Plaintiffs served Earth First! Journal (“Journal”), a legal entity based in Lake Worth, Florida, not EF!, which Plaintiffs admit is the name of a movement used by a number of different individuals and entities.<sup>2</sup>

Plaintiffs responded to the Show Cause Order<sup>3</sup> and incorporated a Motion to Amend or for Leave to Conduct Limited Discovery.<sup>4</sup> I granted Plaintiffs’ motion in part and they filed an Amended Complaint.<sup>5</sup> For the following reasons, Earth First! is DISMISSED as a party to this action, without prejudice.

Plaintiffs filed this action on August 22, 2017. On March 22, 2018, I denied Plaintiffs’ Motion for Declaration of Effective Service, Journal’s Motion for Sanctions, and Plaintiffs’

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<sup>1</sup>Doc. No. 88.

<sup>2</sup>Doc. No. 34, p. 3 (“Several of the individuals associated with the Earth First! movement use the name Earth First! in association with other entities and efforts which do the work of Earth First!”).

<sup>3</sup>Doc. Nos. 89 and 90.

<sup>4</sup>Doc. No. 91.

<sup>5</sup>Doc. Nos. 94 and 95.

Motion to Strike.<sup>6</sup> On April 3, 2018, Journal filed a response to an Order establishing they are a legal entity separate from the “movement” or association EF!.<sup>7</sup> It appears Plaintiffs took no action to effect service of EF! until I entered the Order to Show Cause on July 25, 2018.<sup>8</sup>

In their attempt to show cause, Plaintiffs alleged EF! and “sister Earth First! chapters” have their own websites, but Journal “is the publication for the unincorporated association, Earth First! and serves as its public face.”<sup>9</sup> Instead of clarifying the issues of service and entity, Plaintiffs served, on July 27, 2018, Marion De Jong, who is not a party but “was the President of Night Heron Grassroots Activist Center, which formerly held the tradestyle for Earth First! Journal.”<sup>10</sup> As noted, this is wholly insufficient to provide notice to an entity subject to suit (as alleged by Plaintiffs) that allegedly provided hundreds of thousands of dollars to fund an international terrorist, drug-smuggling RICO enterprise.

Plaintiffs failed to effect service on EF! and the time to do so has passed.<sup>11</sup> Journal is not a named or otherwise proper party to this action. Plaintiffs have not established good cause for their failure to serve EF!. Plaintiff’s Amended Complaint fails to establish EF! is an entity subject to suit, despite allegations against John and Jane Does “operating as associates” or

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<sup>6</sup>Doc. No. 74.

<sup>7</sup>Doc. Nos. 80 and 81.

<sup>8</sup>Doc. No. 88.

<sup>9</sup>Doc. No. 34, p. 6.

<sup>10</sup>Doc. Nos. 89, p. 5 and 90-14

<sup>11</sup>FED.R.CIV.P. 4(m).

“holding themselves out as representatives” of EF!.<sup>12</sup> Accordingly, Earth First! is DISMISSED as a party to this action, without prejudice.<sup>13</sup> Plaintiffs have 30 days to identify and serve the John and Jane Doe Defendants allegedly associated as, or representatives of, EF!.

IT IS SO ORDERED this 22nd day of August, 2018.

/s/ Billy Roy Wilson  
UNITED STATES DISTRICT JUDGE

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<sup>12</sup>Doc. No. 95, pp. 4-6, 9-11, 13, 18-22, 24, 29, 32, 34, 37, 44, 46, 56-57.

<sup>13</sup>FED.R.CIV.P. 4(m).